

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

- v. -

RAY SMITH and
EDGAR COLON,

Defendants.

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: _____
DATE FILED: _____

ORIGINAL

JUN 06 2008
INDICTMENT

: 08 Cr.

: 08 CRIM 512

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COUNT ONE

The Grand Jury charges:

1. From in or about April 2008 through on or about May 7, 2008, in the Southern District of New York and elsewhere, RAY SMITH and EDGAR COLON, the defendants, and others known and unknown, unlawfully, intentionally and knowingly did combine, conspire, confederate and agree together and with each other to violate the controlled substances laws of the United States.

2. It was a part and object of the conspiracy that RAY SMITH and EDGAR COLON, the defendants, and others known and unknown, unlawfully, intentionally, and knowingly would and did distribute and possess with intent to distribute a controlled substance, to wit, 50 grams and more of mixtures and substances containing a detectable amount of cocaine base, in a form commonly known as "crack," in violation of Title 21, United States Code, Sections 812, 841(a)(1), and 841(b)(1)(A).

Overt Act

3. In furtherance of the conspiracy and to effect the

illegal objects thereof, RAY SMITH and EDGAR COLON, the defendants, committed the following overt act, among others, in the Southern District of New York:

a. On or about May 7, 2008, RAY SMITH and EDGAR COLON, the defendants, traveled to the vicinity of the Pathmark located at 227 Cherry Street in New York, New York.

(Title 21, United States Code, Section 846)

COUNT TWO

The Grand Jury further charges:

4. On or about May 7, 2008, in the Southern District of New York and elsewhere, RAY SMITH and EDGAR COLON, the defendants, unlawfully, intentionally, and knowingly did distribute and possess with intent to distribute a controlled substance, to wit, 50 grams and more of mixtures and substances containing a detectable amount of cocaine base, in a form commonly known as "crack."

(Title 21, United States Code, Sections 812, 841(a)(1), and 841(b) (1) (A); Title 18, United States Code, Section 2.)

Forfeiture Allegation

5. As a result of committing the controlled substances offenses alleged in Counts One and Two of this Indictment, RAY SMITH and EDGAR COLON, the defendants, shall forfeit to the United States, pursuant to 21 U.S.C. Section 853, any and all property constituting or derived from any proceeds the said defendants obtained directly or indirectly as a result of the said controlled substances violations and any and all property used or intended to

be used in any manner or part to commit and to facilitate the commission of the controlled substances violations alleged in Counts One and Two of this Indictment.

Substitute Asset Provision

6. If any of the property described above as being subject to forfeiture, as a result of any act or omission of the defendants:

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third person;
- c. has been placed beyond the jurisdiction of the Court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be subdivided without difficulty;

it is the intention of the United States, pursuant to 21 U.S.C. Section 853(p), to seek forfeiture of any other property of the defendants up to the value of the above forfeitable property.

(Title 21, United States Code, Sections 841(a)(1), 846 and 853.)

Jay L. L.

FOREPERSON

Michael J. Garcia
MICHAEL J. GARCIA
United States Attorney

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INDICTMENT

08 Cr.

(21 U.S.C. §§ 812, 841(a)(1), 841(b)(1)(A), & 846;
18 U.S.C. § 2)

MICHAEL J. GARCIA
United States Attorney.

A TRUE BILL

Jay Lovil

Foreperson.

6/6/08 Filed Indictment. Case assigned to Judge Daniels.
Pitman
U.S.M.J.